

Case No. 6,552. HOBOKEN LAND & IMP. CO. V. THE SUNSWICK.
[N. X. Times. Jan. 7, 1863.]

District Court, S. D. New York.

CAPSIZING OF VESSEL—IMPROPER LOADING—RECOVERY FOR LOSS.

[The owner of the cargo may recover for a loss caused by the capsizing of the vessel due solely to improper loading.]

Mr. Morton, for libelants.

Mr. Sauxay, for respondents.

This was an action brought [by the Hoboken Land & Improvement Company against the lighter Sunswick and John Reed, master] to recover the value of some railroad iron, alleged to have been shipped on the lighter at Brooklyn, to be carried to Hackensack, N. J., and lost on the passage. The respondents set up as a defence that one Lemmon, the agent of the libelants, hired the lighter of her owner for the purpose of themselves carrying the iron, and they alone were responsible for the loss.

Before SHIPMAN, District Judge.

HELD BY THE COURT: That on the evidence the contract on which the libel is founded, was one which bound the respondents to carry the iron safely, limited only by the absence of any responsibility for any difficulty that might arise in navigating the Hackensack river. That the libelants' agent, was not the sailing-master of the lighter, and took no responsibility about her sailing. Reed, her master, employed and paid a tug for towing the lighter up the stream. The boat turned over from having too much weight on deck, and this loading the libelants had nothing to do with; and she was upset not in the Hackensack, nor in consequence of any difficulty arising out of bad pilotage, but in New York harbor, and solely from the improper way in which she was laden. Decree for libelants, with a reference to compute the damages.